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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,283	10/17/2001	Wayne C. Roach	052050-0009	5019
28977	7590	10/05/2006	EXAMINER	
MORGAN, LEWIS & BOCKIUS LLP			SHAW, PELING ANDY	
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			2144	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/981,283	<b>Applicant(s)</b> ROACH ET AL.	
	<b>Examiner</b> Peling A. Shaw	<b>Art Unit</b> 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Continued Examination under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/21/2006 has been entered. Claims 1, 2, 4, 7-9 and 13 are amended. Claims 5 and 14-41 are cancelled. Claims 1-4 and 6-13 are currently pending.
2. Amendment received on 09/23/2005 was entered. Claims 1-2, 4-9, 13, 15-21, 25-28, 30-31, 33-37 and 41 were amended. Claim 14 was cancelled.

### *Priority*

3. This application has no priority claim made. The filing date is 10/17/2001.

### *Double Patenting*

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-18 and 20-21 of copending Application No. 09/981,666 and claims 29 and 30 of copending Application No. 09/981, 301.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the independent patented claims and the independent presented claims differ only with respect to the specification of indicating receiving UDP packets not claimed in Application No. 09/981, 301. Thus, the set of presented claims comprise a majority of subject matter which is expressly disclosed and claimed by Application No. 09/981,666 and Application No. 09/981, 301, and further, since the differences between the patented claims and the presented claims would have been an obvious variation of the patented invention, minimally based on the contained teachings, "duplication of parts", "rearrangement of parts", and potentially other rationale (see, inter alia, MPEP §2144.04).

Claims 1-8 are rejected.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (US 20030140159 A1), hereinafter referred as Campbell in view of Herrod (US

20030065784 A1), hereinafter referred as Herrod, Felsher (US 20020010679 A1), hereinafter referred as Felsher and Gutmann et al. (US 5774674 A), hereinafter referred as Gutmann.

- a. Campbell shows (claim 1) in an Open System Interconnection (OSI) model having at least a transport layer represented by a user datagram protocol (UDP); a transmitter portion that is configured to generate UDP packets in the first BIntU transceiver and transmit the UDP packets over the network solely at or below the transport layer; in order to generate UDP frame information, temporarily stores the UDP frame information solely at or below the transport layer as a UDP packet within a protocol stack, transmits the UDP packet directly from the protocol stack to the network access point at, or below, the transport layer, and transmits the UDP packet from the network access point to the data distribution center at, or below, the transport layer; and wherein the UDP information output by the encoder travels from the encoder to the stack and from the stack to the network access point solely at, or below, the transport layer and (paragraph 1: a client/server system for transmitting/retrieving real-time media information; paragraph 26: RTP and VDP; paragraph 108: VDP over UDP); wherein the first BIntU transceiver is configured to interface with the data distribution center or a second BIntU transceiver to indicate when UDP packets transmitted from the first BIntU transceiver to the data distribution center or the second BIntU transceiver are being received (page 2, paragraph 26; page 5, paragraph 88-89; page 6, paragraph 98-108). Campbell does not show a first broadband interface unit (BIntU) transceiver associated with a broadband network system wherein the first broadband network system further includes a data distribution center, wherein the

data distribution center is coupled over a network to a network access point, a personal computer with a computer processor, wherein the personal computer is separate from the first BIntU transceiver, and the first BIntU transceiver is positioned between the network access point and the personal computer; responsive to function calls from the personal computer; wherein said transmitter portion encodes, with an encoder, audio or video information, within the first BIntU transceiver; without being processed by the computer processor in the personal computer; .

- b. Herrod shows (claim 1) a first broadband interface unit (BIntU) transceiver associated with a broadband network system wherein the first broadband network system further includes a data distribution center (page 7, paragraph 81) in an analogous art for the purpose of maintaining connectivity between applications during communications by mobile computer terminals operable in wireless networks.
- c. Gutmann shows (claim 1) wherein the data distribution center is coupled over a network to a network access point, a personal computer with a computer processor, wherein the personal computer is separate from the first BIntU transceiver, and the first BIntU transceiver is positioned between the network access point and the personal computer (Fig. 2 items 202 and 206); responsive to function calls from the personal computer (column 5, lines 39-45: audio/video conferencing application); wherein said transmitter portion encodes, with an encoder, audio or video information, within the first BIntU transceiver (Fig. 4, item 104); without being processed by the computer processor in the personal computer (Fig. 2: items 202, 206 and 210: voice over ISDN does not go through host processor) in an analogous art for

the purpose of negotiating at least two sets of video capabilities between two nodes to perform video conferencing between the nodes according to the selected set.

- d. It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify Campbell's functions of transmitting and/or retrieving real-time video and audio information with Herrod's functions of data distribution center and Gutmann's functions of using DSP for communication and information coding and decoding.
- e. The modification would have been obvious because one of ordinary skill in the art would have been motivated to incorporate the legacy ISDN voice interface technology per Gutmann's teaching in the real-time video and audio transmission/retrieval per Campbell (paragraph 1)'s teaching over the more recent technology advancement in the area of wireless local area network per Herrod (paragraph 34)'s teaching.
- f. Regarding claim 2, Campbell shows wherein the data distribution center generates a return packet in response to the UDP packets, wherein the return packet is transmitted from the second BIntU transceiver via the data distribution center to the BIntU transceiver (page 5, paragraph 88-89; page 6, paragraph 98-108).
- g. Regarding claim 3, Campbell shows further comprising software associated with the first BIntU transceiver that permits the first BIntU transceiver to interface with the second BIntU transceiver or the data distribution center (page 6, paragraph 110).
- h. Regarding claim 4, Campbell shows further comprising: a receiver portion that is configured to receive a return packet from the data distribution center of the second

BIntU transceiver to indicate that the data distribution center or the second BIntU transceiver received at least one of the UDP packets from the first BIntU transceiver (page 5, paragraph 88-89; page 6, paragraph 98-108).

- i. Regarding claim 6, Campbell shows wherein at least one of the UDP packets including frame header information generated at the application layer further includes an applet (page 2, paragraph 23; page 6, paragraph 100).
- j. Regarding claim 7, Campbell shows wherein the first BIntU transceiver interfaces with first data distribution center, wherein the first BIntU transceiver receives a return packet from the data distribution center in response to at least one of the UDP packets (page 5, paragraph 88-89; page 6, paragraph 98-108).
- k. Regarding claim 8, Campbell shows wherein at least one of the UDP packets further includes an applet, and wherein the return packet is returned in response to the applet (page 2, paragraph 23; page 6, paragraph 100; page 5, paragraph 88-89; page 6, paragraph 98-108).

Together Campbell, Herrod and Gutmann disclosed all limitations of claims 1-4 and 6-8.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 103(a).

6. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell, Herrod and Gutmann, and further in view of Felsher (US 20020010679 A1), hereinafter referred as Felsher.

- a. Campbell, Herrod and Gutmann has shown claim 1 as above. Campbell, Herrod and Gutmann does not show (claim 9) wherein the UDP packets are received by the data



distribution center or transmitted by the data distribution center using security techniques.

- b. Felsher shows (claim 9) wherein the UDP packets are received by the data distribution center or transmitted by the data distribution center using security techniques (page 43, paragraph 343) in an analogous art for the purpose of system, method and infrastructure for maintaining electronic medical records.
- c. It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify Campbell's functions of transmitting and/or retrieving real-time video and audio information with Herrod's functions of data distribution center, Gutmann's functions of using DSP for communication and information coding and decoding, and Felsher's functions for accessing security.
- d. The modification would have been obvious because one of ordinary skill in the art would have been motivated to incorporate the legacy ISDN voice interface technology per Gutmann's teaching and the latest accessing security technology per Felsher's teaching in the real-time video and audio transmission/retrieval per Campbell (paragraph 1)'s teaching over the more recent technology advancement in the area of wireless local area network per Herrod (paragraph 34)'s teaching.
- e. Regarding claim 10, Felsher shows wherein the security techniques utilize biometric technology that may be accessed by the data distribution center (page 3-4, paragraph 42-44; page 35, paragraph 245; page 42, paragraph 330).

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- f. Regarding claim 11, Felsher shows wherein the security techniques utilize smart card technology that may be accessed by the data distribution center (page 43, paragraph 343).
- g. Regarding claim 12, Felsher shows wherein the security techniques include a private key located at the BIntU transceiver that may be accessed by the data distribution center (page 43, paragraph 343).
- h. Regarding claim 13, Felsher shows further comprising a data distribution center that interfaces with the first BIntU transceiver, wherein the data distribution center or the second BIntU transceiver selectively transmits a return packet to the first BIntU transceiver in response to at least one of the UDP packets, and wherein an end user at the second BIntU transceiver can access at least one of the UDP packets based on the security techniques (page 43, paragraph 343).

Together Campbell, Herrod, Gutmann and Felsher disclosed all limitations of claims 9-13.

Claims 9-13 are rejected under 35 U.S.C. 103(a).

*Response to Arguments*

7. Applicant's arguments dated 06/21/2006 with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.

- a. Applicant has amended the claim language substantially. Applicant has argued based upon the amended claim language, i.e. "... the UDP information output by the encoder travels from the encoder to the stack and from the stack to the network access point solely at, or below, the transport layer and without being processed by the computer processor in the personal computer ...". Examiners has reviewed the amended claim language and the previous applied prior arts and also made additional search in identifying addition prior arts with respect to the amended claim language changes. Three additional prior arts are identified to be rather relevant to applicant's current claimed invention. They are recited in the Remarks section below. However the original recited prior arts seem to stand in rejecting the amended claim set. The above rejection sections under 35 U.S.C. 103(a) reflect the amended claim language changes.
- b. Applicant's claim language changes have further narrowed the claimed invention. However, it is the Examiner's position that Applicant has not submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to claim as broadly as possible their invention, it is also the Examiner's right to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality that allows for Applicant's invention to overcome the prior

art used in the rejection, fails to differentiate in detail how these features are unique (see item a in section 5 and a and item a in section 6). It is well known in the network system that a broad band interface such as ISDN was used to provide voice and video communication with voice function is directed supported by a ISDN interface unit per Gutmann's teaching and as well as ISDN terminal with voice or data capability is used in the telecommunication since middle of 1980s. It is also well known that video or voice over IP per Roy (US 6831899 B1) or Allen (US 6529233 B1) which combine voice/video interface with network interface. It is clear that Applicant must be able to submit claim language to distinguish over the prior arts used in the above rejection sections that discloses distinctive features of Applicant's claimed invention. It is suggested that Applicant compare the original specification and claim language with the cited prior art used in the rejection section above or the Remark section below to draw an amended claim set to further the prosecution.

- c. Failure for Applicant to narrow the definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant's intent to broaden claimed invention. Examiner interprets the claim language in a scope parallel to the Applicant in the response. Examiner reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

*Remarks*

8. The following pertaining arts are discovered and not used in this office action. Office reserves the right to use these arts in later actions.

- a. Zhang et al. (US 20030018794 A1) Architecture and related methods for streaming media content through heterogeneous networks
- b. Roy (US 6831899 B1) Voice and video/image conferencing services over the IP network with asynchronous transmission of audio and video/images integrating loosely coupled devices in the home network
- c. Allen (US 6529233 B1) Systems and methods for remote video and audio capture and communication

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*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to the enclosed PTO-892 for details.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peling A. Shaw whose telephone number is (571) 272-7968. The examiner can normally be reached on M-F 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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